

Rikers Island Civil Suit
Prepared Remarks for U.S. Attorney Preet Bharara
December 18, 2014

Good afternoon. My name is Preet Bharara, and I am the United States Attorney for the Southern District of New York.

I think everyone knows by now that my office's commitment to long-overdue and permanent reform at Rikers Island is total. First, that means holding individuals accountable and punishing them. And we have done that.

Three months ago, we convicted correction officer Khalif Phillips for smuggling drugs into the jail.

Last Friday, we convicted correction officer Austin Romain, who took bribes and conspired to smuggle drugs into Rikers Island.

And just yesterday, we convicted former Rikers Island captain Terrence Pendergrass, who violated Jason Echevarria's constitutional rights by deliberately ignoring his pleas for help and depriving him of urgent medical care, leaving Echevarria to die alone in his cell. We believe that this was the first criminal civil rights conviction of a Rikers officer in more than a decade. These Rikers officers now face time in prison as inmates themselves.

And we still have other investigations into individuals who abused their power at Rikers Island but our work cannot and does not end there. We will continue to press forward to demand sweeping, institutional reforms at Rikers Island. That is what brings us here today as we have taken another step in our broad civil rights investigation of conditions at Rikers Island.

As you know, more than four months ago, on August 4th, I announced the findings and recommendations of our civil rights investigation into the treatment of male inmates at Rikers Island between the ages of 16 and 18. I explained our conclusion that there is a pattern and practice of conduct at Rikers that violates the Constitutional rights of these inmates; that Rikers Island is fundamentally broken; and that brute force, verbal insults, beatings, and a culture of violence persist. I said that something is very wrong at Rikers, and that reform is long overdue. And I urged the City, in the strongest terms possible, to take our recommendations seriously and act quickly to remedy the unconstitutional conditions detailed in our Report.

Forty-nine days later, when the statutory waiting period ended and all options became available to us, I issued a statement reporting, among other things, that my Office was engaged in discussions with the City to ensure that it was moving swiftly to implement reforms. I said that our dialogue was ongoing, but also that we stood ready to take legal action to compel long-overdue reforms at Rikers if that became necessary to get to the finish line.

That time has now arrived. Today we have taken a legal step we believe is necessary to ensure that critically important reforms are implemented at Rikers Island and that those reforms are

enduring, enforceable, and verifiable. In our view there must be, at the end of the day, a court-ordered agreement.

Specifically, this morning we filed a motion in federal court to intervene in a private lawsuit against the City called Nunez v. City of New York. The plaintiffs in the Nunez suit, which was filed in 2011, allege that the City is engaging in a pattern and practice of using unnecessary and excessive force against inmates at Rikers Island. The allegations in that suit overlap significantly with the conduct described in our Report, including allegations that Department of Correction staff use force against inmates as punishment, beat inmates in locations without video surveillance, fail to accurately report use of force incidents, and conduct inadequate use of force investigations.

We are moving to intervene join in the Nunez suit under a statute which provides that the Government may intervene in a lawsuit that seeks relief from conditions of confinement that deprive inmates of rights protected by our Constitution, as long as the Attorney General certifies that certain prerequisites have been met. The Attorney General has done that here, and strongly supports the action we are taking today.

Before we filed today's motion, we asked the City if it would consent to our intervention in the Nunez suit. Last night, the City consented to our joining the private lawsuit. We view that choice as a positive sign, indicating the City's willingness to continue a dialogue with us, one that we hope will culminate in an agreed-upon, court-ordered resolution of our complaint. But we will not let up in our pursuit of justice for inmates at Rikers Island, wherever that leads.

The 36-page proposed complaint explains in detail the egregious and flagrant conditions of confinement at Rikers that have deprived these inmates of their rights under the Constitution.

Like our August Report, the complaint focuses on three main areas: the use of force by staff, inmate-on-inmate violence, and the use of punitive segregation. To recap briefly, we found and allege in our proposed complaint:

- Staff use force against adolescents with alarming frequency. Blows to the head are widespread. Rather than using force as a last resort, correction officers use force to punish, taking inmates to isolated locations with limited or no camera coverage to inflict beatings.
- The Department allows a powerful code of silence to persist at Rikers.
- The Department fails to conduct timely and thorough investigations of use of force incidents.
- The Department fails to adequately discipline staff for using unnecessary or excessive force against the adolescent population.
- The Department fails to provide correction officers with adequate training in appropriate use of force.

- Inmates charged with committing rule violations, including non-violent infractions, have been routinely placed in what amounts to solitary confinement for weeks, and sometimes months, at a time. This is a point I emphasized in August. After we issued our Report in August, the Department has stopped using punitive segregation for 16 and 17-year-olds by the end of the calendar year.
- Although we applaud the Commissioner for this decision, we believe court-ordered relief is still necessary to guarantee that this long overdue change is permanent and verifiable and won't revert back if there happens to be a change of heart or a change in leadership. In addition, the Department continues to place 18-year-olds, including those diagnosed with mental illnesses, in punitive segregation for lengthy periods.

Now, there have been, without question, positive developments since we issued our report:

- The Mayor recently acknowledged that "Rikers Island has been a dehumanizing environment" where violence has become "entirely too common and [was] tolerated," and that the institution "deeply needs a culture change."
- And in response to our report, Commissioner Ponte has taken several good steps with respect to the 16 and 17-year-old population, including improving the staff-to-inmate ratio, developing new programming, and moving towards eliminating the use of punitive segregation.

We appreciate all of that, we appreciate the mayor's visit to Rikers yesterday and the steps taken so far.

But in our view, much, much more needs to be done to safeguard the Constitutional rights of inmates at Rikers and to ensure that it is a safe and secure environment not just for the inmates but for the staff also. Just from September through November of this year, for example, there were 132 use of force incidents by staff involving inmates between the ages of 16 and 18. Those numbers remain way too high.

We have now had several meetings with the City concerning the recommendations in our Report, and we have made progress but we need more. The bottom line is that reform must be permanent—and by that I mean legally permanent.

Sometimes it's the case that bureaucracy can get in the way of reform-minded thinking and comprehensive cultural change. We hope that won't be the case here. We welcome the aspirations articulated by Commissioner Ponte but we hope those aspirations will find concrete expression in the form of permanent, enforceable, and verifiable terms in a court-approved settlement agreement.

The devil, as they say, is in the details and we have come to the conclusion that joining the pending case as a formal party is the best and most efficient way to get those details done. That is why we are now taking the steps necessary to carry out our responsibility under the law.

Given the longstanding sad state of affairs at Rikers Island, our impatience is more than understandable.

As I've said before, one way or another, we will get enduring and enforceable reform at Rikers Island.

Before calling up Acting Assistant Attorney General for Civil Rights, Vanita Gupta, I want to thank her, Deputy Assistant Attorney General Mark Kappelhoff, and Attorney General Eric Holder, as well as the Civil Rights Division of the Department of Justice.

I want to thank the Board of Correction for their continued assistance in connection with this Office's investigation.

I also want to recognize and thank the dedicated prosecutors and paralegals in my office for their outstanding work. The Assistant U.S. Attorneys are: Emily Daughtry, Deputy Chief Appellate Attorney; Jeffrey Powell; Lara Eshkenazi, Deputy Chief of the Civil Rights Unit, David Kennedy, Chief of the Civil Rights Unit, and Sara Shudofsky, Chief of the Civil Division. The paralegals are Tammy Yin and Jamie Tovar.